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8 NATIONAL FIRE & MARINE
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9
10 UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

11 UNITED NATIONAL INSURANCE
12 COMPANY, licensed to business in the State
of Nevada,

13 Plaintiff,

14 vs.

15 ASSURANCE COMPANY OF AMERICA,
16 licensed to do business in the State of Nevada,
and MARYLAND CASUALTY COMPANY,
17 licensed to do business in the State of Nevada,

18 Defendants.

19 ASSURANCE COMPANY OF AMERICA,
20 AND MARYLAND CASUALTY
COMPANY,

21 Counterclaimants,

22 v.

23 UNITED NATIONAL INSURANCE
24 COMPANY AND NATIONAL FIRE &
MARINE INSURANCE COMPANY,

25 Counterdefendants.

Case No. 2:10-cv-01086-MMD-RJJ

EMERGENCY STIPULATION AND
[PROPOSED] ORDER REGARDING THE
BRIEFING SCHEDULE FOR ASSURANCE
COMPANY OF AMERICA AND MARYLAND
CASUALTY COMPANY'S MOTION FOR
PARTIAL SUMMARY JUDGMENT RE
NATIONAL FIRE'S DUTY TO INDEMNIFY
[82-1] AND RELATED FILINGS [82
THROUGH 82-21]

(FIRST REQUEST)

1 ASSURANCE COMPANY OF AMERICA)
and MARYLAND CASUALTY COMPANY,)

2 Counterclaimants,)

3 v.)

4 NATIONAL FIRE & MARINE)
INSURANCE COMPANY,)

5 Third-Party Defendants.)
6)
7)
8)

9
10 **EMERGENCY STIPULATION AND [PROPOSED] ORDER REGARDING THE BRIEFING SCHEDULE**
11 **FOR ASSURANCE COMPANY OF AMERICA AND MARYLAND CASUALTY COMPANY'S MOTION**
12 **FOR PARTIAL SUMMARY JUDGMENT RE NATIONAL FIRE'S DUTY TO INDEMNIFY [82-1] AND**
13 **RELATED FILINGS [82 THROUGH 82-21]**

14 **PURSUANT TO LOCAL RULE 7-1**, Defendants/ Counterclaimants/Third Party
15 Plaintiffs Assurance Company of America and Maryland Casualty Company (jointly "Zurich")
16 and Counterdefendant/Third Party Defendant National Fire & Marine Insurance Company
17 ("National Fire") (collectively, the "Parties") hereby stipulate and agree as follows:

18 1. Assurance Company of America and Maryland Casualty Company's Motion for
19 Partial Summary Judgment Re National Fire's Duty to Indemnify ("Motion") was filed on
20 September 13, 2012. (ECF No. 82-1.)

21 2. Pursuant to LR 7-2(e) "A party opposing the motion must file a response within
22 twenty-one (21) days after the motion is served or a responsive pleading is due, whichever is
23 later[and t]he movant may file a reply within fourteen (14) days after the response is served."
24 Furthermore, Federal Rule of Civil Procedure 6(d) provides that an additional three days are
25 added to a party's time to file a response or reply to a motion for summary judgment. However,
"if the last day is a Saturday, Sunday, or legal holiday, the period continues to run until the end

1 of the next day that is not a Saturday, Sunday, or legal holiday.” Accordingly, a party
2 responding to a motion for summary judgment filed on September 13, 2012, has up to and until
3 October 9, 2012 to respond.

4 3. The Court’s electronic filing system has calendared National Fire’s response
5 according to the LR 7-2(b) rather than LR 7-2(e), which applies to motions for summary
6 judgment.

7 4. Therefore, in an abundance of caution, the Parties stipulate and agree that
8 National Fire’s response to Zurich’s Motion, including all Related Filings¹ and exhibits, is due
9 on October 9, 2012.

10 5. Pursuant to LR 7-2(e), a party filing a motion for summary judgment may file a
11 reply within fourteen (14) days after the response is served.”

12 6. The Parties anticipate that the Court’s electronic filing system will calendar
13 Zurich’s time to file a reply according to LR 7-2(c) rather than LR 7-2(e).

14 7. Consequently, the Parties stipulate and agree that Zurich’s may file a reply to
15 National Fire’s response in accordance with LR 7-2(e).

16 8. In addition, National Fire is seeking an extension of time from Zurich for
17 National Fire to respond to Zurich’s Motion. Zurich has not agreed to such an extension but in
18 the interests of judicial economy, the Parties continue to discuss the bases for National Fire’s
19

20 ¹ Assurance Co. of Am. and Md. Cas. Co’s Notice of Mot. for Partial Summ. J. re Nat’l
21 Fire’s Duty to Indemnify, Sept. 13, 2012, ECF No. 82; Assurance Co. of Am. and Md.
22 Cas. Co’s Separate Stmt. of Undisputed Facts in Support of Mot. for Partial Summ. J.
23 Regarding Nat’l Fire & Marine Ins. Co’s Duty to Indemnify, Sept. 13, 2012, ECF No.
24 82-2; Decl. of Robert Derchi in Support of Assurance Co. of Am. and Md. Cas. Co’s
25 Mot. for Partial Summ. J. Re Nat’l Fire’s Duty to Indemnify, Sept. 13, 2012, ECF No.
82-3; Decl. of Ramiro Morales in Support of Assurance Co. of Am. and Md. Cas. Co’s
Mot. for Partial Summ. J. Regarding [sic] Nat’l Fire & Marine Ins. Co’s Duty to
Indemnify, Sept. 13, 2012, ECF No. 82-5; Assurance Co. of Am. and Md. Cas. Co’s
Req. for Jud. Notice in Support of Mot. for Partial Summ. J. Regarding Nat’l Fire’s Duty
to Indemnify, Sept. 13, 2012, ECF No. 82-12.

1 request. Should the Parties be unable to agree on an extension, National Fire reserves its right to
2 bring a motion for an extension of time and/or a motion under FRCP 56(d).

3 9. This stipulation and agreement is made without prejudice to any other rights of
4 the Parties.

5
6 DATED: 10/1/12

DATED: 10/1/12

7 MORALES, FIERRO & REEVES

BAILEY ♦ KENNEDY

8
9 By: /s/ Ramiro Morales

By: /s/ Kelly B. Stout

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11 *Attorneys for Defendants/Counterclaimants/*

Attorneys for Counterdefendants/ Third-Party

12 *Third Party Plaintiffs* ASSURANCE

Defendant NATIONAL FIRE & MARINE

COMPANY OF AMERICA and

INSURANCE COMPANY

13 MARYLAND CASUALTY COMPANY

14
15 IT IS SO ORDERED.

16 UNITED STATES DISTRICT JUDGE

17 Dated: October 2, 2012

18 Respectfully Submitted by:

19 BAILEY ♦ KENNEDY

20 By: /s/ Kelly B. Stout

21 Sarah E. Harmon

Kelly B. Stout

22 8984 Spanish Ridge Avenue

23 Las Vegas, Nevada 89148-1302

24 *Attorneys for Counterdefendant /*

Third-Party Defendant

25 NATIONAL FIRE & MARINE

INSURANCE COMPANY